

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 268 AND SENATE BILLS 738 & 866

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR
OR DRUGS; REVISING PROCEDURES FOR COLLECTION OF FEES FOR THE
INTERLOCK DEVICE FUND; ALLOWING JUVENILES TO QUALIFY UNDER THE
INTERLOCK DEVICE FUND; LIMITING ADMINISTRATIVE COSTS; ALLOWING
ELECTRONIC SUBMISSION OF STATEMENTS BY LAW ENFORCEMENT OFFICERS
PURSUANT TO THE IMPLIED CONSENT ACT; ESTABLISHING STANDARD DWI
ARREST REPORTS AND PROCEDURES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-8-102.3 NMSA 1978 (being Laws 2002,
Chapter 82, Section 2, as amended) is amended to read:

"66-8-102.3. IMPOSING A FEE--CREATING A FUND.--

A. A fee is imposed on ~~[all persons who provide
ignition interlock devices to]~~ a person convicted of driving
while under the influence of intoxicating liquor or drugs

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1 pursuant to Section 66-8-102 NMSA 1978 or adjudicated as a
2 delinquent on the basis of Subparagraph (a) of Paragraph (1) of
3 Subsection A of Section 32A-2-3 NMSA 1978 or a person whose
4 driver's license is revoked pursuant to the provisions of the
5 Implied Consent Act, in [the] an amount [of ten percent of the
6 amount charged to lease, install, service and remove each
7 ignition interlock device for a person convicted pursuant to
8 Section 66-8-102 NMSA 1978 or whose driver's license is revoked
9 pursuant to the provisions of the Implied Consent Act and shall
10 be paid monthly to the local government division of the
11 department of finance and administration] determined by rule of
12 the department of finance and administration not to exceed one
13 hundred dollars (\$100) but not less than fifty dollars (\$50.00)
14 for each year the person is required to operate only vehicles
15 equipped with an ignition interlock device in order to ensure
16 the solvency of the interlock device fund. The fee imposed by
17 this subsection shall be collected by the vendor who provides
18 an ignition interlock device to the person, and the vendor
19 shall remit the fees collected on a monthly basis to the local
20 government division of the department of finance and
21 administration.

22 B. The "interlock device fund" is created in the
23 state treasury. The fee imposed pursuant to Subsection A of
24 this section shall be distributed to the fund by the local
25 government division of the department of finance and

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1 administration.

2 C. All money in the interlock device fund is
3 appropriated to the local government division of the department
4 of finance and administration to cover the costs of installing
5 and removing and one-half of the cost of leasing [for the
6 initial four months and removing] ignition interlock devices
7 for indigent people who are required, pursuant to convictions
8 under Section 66-8-102 NMSA 1978, adjudications on the basis of
9 Subparagraph (a) of Paragraph (1) of Subsection A of Section
10 32A-2-3 NMSA 1978 or driver's license revocations pursuant to
11 the provisions of the Implied Consent Act, to install those
12 devices in their vehicles. Indigency shall be determined by
13 the sentencing court.

14 D. Any balance remaining in the interlock device
15 fund shall not revert to the general fund at the end of any
16 fiscal year.

17 E. The interlock device fund shall be administered
18 by the local government division of the department of finance
19 and administration. No more than five percent of the money in
20 the interlock device fund in any fiscal year shall be expended
21 by the local government division of the department of finance
22 and administration for the purpose of administering the fund."

23 Section 2. Section 66-8-111 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 519, as amended by Laws 2003, Chapter 51,
25 Section 13 and by Laws 2003, Chapter 90, Section 6) is amended

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1 to read:

2 "66-8-111. REFUSAL TO SUBMIT TO CHEMICAL TESTS--TESTING--
3 GROUNDS FOR REVOCATION OF LICENSE OR PRIVILEGE TO DRIVE. --

4 A. If a person under arrest for violation of an
5 offense enumerated in the Motor Vehicle Code refuses upon
6 request of a law enforcement officer to submit to chemical
7 tests designated by the law enforcement agency as provided in
8 Section 66-8-107 NMSA 1978, none shall be administered except
9 when a municipal judge, magistrate or district judge issues a
10 search warrant authorizing chemical tests as provided in
11 Section 66-8-107 NMSA 1978 upon his finding in a law
12 enforcement officer's written affidavit that there is probable
13 cause to believe that the person has driven a motor vehicle
14 while under the influence of alcohol or a controlled substance,
15 thereby causing the death or great bodily injury of another
16 person, or there is probable cause to believe that the person
17 has committed a felony while under the influence of alcohol or
18 a controlled substance and that chemical tests as provided in
19 Section 66-8-107 NMSA 1978 will produce material evidence in a
20 felony prosecution.

21 B. The department, upon receipt of a statement
22 signed under penalty of perjury from a law enforcement officer
23 stating the officer's reasonable grounds to believe the
24 arrested person had been driving a motor vehicle within this
25 state while under the influence of intoxicating liquor or drugs

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1 and that, upon [~~his~~] request, the person refused to submit to a
2 chemical test after being advised that failure to submit could
3 result in revocation of [~~his~~] the person's privilege to drive,
4 shall revoke the person's New Mexico driver's license or any
5 nonresident operating privilege for a period of one year or
6 until all conditions for license reinstatement are met,
7 whichever is later.

8 C. The department, upon receipt of a statement
9 signed under penalty of perjury from a law enforcement officer
10 stating the officer's reasonable grounds to believe the
11 arrested person had been driving a motor vehicle within this
12 state while under the influence of intoxicating liquor and that
13 the person submitted to chemical testing pursuant to Section
14 66-8-107 NMSA 1978 and the test results indicated an alcohol
15 concentration in the person's blood or breath of eight one
16 hundredths or more if the person is twenty-one years of age or
17 older, four one hundredths or more if the person is driving a
18 commercial motor vehicle or two one hundredths or more if the
19 person is less than twenty-one years of age, shall revoke the
20 person's license, [~~or~~] permit to drive or [~~his~~] nonresident
21 operating privilege for a period of:

22 (1) ninety days or until all conditions for
23 license reinstatement are met, whichever is later, if the
24 person is twenty-one years of age or older;

25 (2) six months or until all conditions for

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1 license reinstatement are met, whichever is later, if the
2 person is less than twenty-one years of age and has not
3 previously had his license revoked pursuant to the provisions
4 of this section, notwithstanding any provision of the
5 Children's Code; or

6 (3) one year or until all conditions for
7 license reinstatement are met, whichever is later, if the
8 person has previously had his license revoked pursuant to the
9 provisions of this section, notwithstanding the provisions of
10 Paragraph (1) or (2) of this subsection or any provision of the
11 Children's Code.

12 D. The determination of alcohol concentration shall
13 be based on the grams of alcohol in one hundred milliliters of
14 blood or the grams of alcohol in two hundred ten liters of
15 breath.

16 E. If the person subject to the revocation
17 provisions of this section is a resident or will become a
18 resident within one year and is without a license to operate a
19 motor vehicle in this state, the department shall deny the
20 issuance of a license to ~~[him]~~ the person for the appropriate
21 period of time as provided in Subsections B and C of this
22 section.

23 F. A statement signed by a law enforcement officer,
24 pursuant to the provisions of Subsection B or C of this
25 section, shall be sworn to by the officer or shall contain a

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1 declaration substantially to the effect: "I hereby declare
2 under penalty of perjury that the information given in this
3 statement is true and correct to the best of my knowledge."
4 The statement may be signed and submitted electronically in a
5 manner and form approved by the department. A law enforcement
6 officer who signs a statement, knowing that the statement is
7 untrue in any material issue or matter, is guilty of perjury as
8 provided in Section 66-5-38 NMSA 1978."

9 Section 3. [NEW MATERIAL] UNIFORM POLICE REPORTS AND
10 PROCEDURES FOR DWI ARRESTS. --

11 A. The department of public safety, in
12 collaboration with the motor vehicle division of the taxation
13 and revenue department and the traffic safety bureau of the
14 department of transportation, shall develop and periodically
15 review and update standard arrest reports and procedures to be
16 used by law enforcement officers when making an arrest for a
17 violation of the provisions of Section 66-8-102 NMSA 1978 or
18 similar municipal or county ordinances.

19 B. A law enforcement officer making an arrest for a
20 violation of the provisions of Section 66-8-102 NMSA 1978 or of
21 similar municipal or county ordinances shall use the standard
22 arrest reports and procedures developed and approved by the
23 department of public safety in accordance with the provisions
24 of Subsection A of this section.